

The sale of a vehicle that has previously been modified to make it usable by a disabled person is subject to Retailers' Occupation Tax liability on the entire selling price of the vehicle at the general merchandise rate (6.25% plus any applicable local tax). See 86 Ill. Adm. Code 130.310. (This is a GIL).

January 13, 2003

Dear Xxxxx:

This letter is in response to your letter dated October 9, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found on the Department's Internet website at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

I recently wrote a letter to your office requesting guidance on the issue of conversion van modifications for the handicapped. Unfortunately, the guidance I received was insufficient to resolve the issue of how the modifications are taxed.

Enclosed is the response I received for your review. 'The short answer' states that the modifications are taxed at full rate. I have also enclosed Information Bulletin FY 96-16 which was provided with my response. The vans at issue are purchased from the factory on behalf of the van conversion company. The van conversion company converts the vehicle prior to selling them. They are contractually obligated to sell the van. However, because they are not a franchised dealer, the title stays with the car dealer and the car dealer processes all paperwork on behalf of the conversion company.

The Information Bulletin briefly discusses modifications made prior to sale. However, it is not clear whether this applies to all vans or to used vans acquired and placed in inventory. Does the van conversion company need to get a customer first, then convert the van in order to get a lower rate on the conversion piece or can they buy a brand new van, convert it then sell it and get the lower rate? At issue seems to be the phrase 'already been modified'. It seems logical that this would apply to used vans for which the lower rate was already taken, but not to new vans on the initial conversion.

Oral guidance given to me by the Department of Revenue has been contrary to the written guidance. Any additional guidance you can provide would be appreciated.

Thank you for your time and attention towards this matter.

DEPARTMENT'S RESPONSE:

Without reviewing the contractual obligations of all of the parties, including the motor vehicle dealers, we cannot provide you with a specific answer regarding their sales tax liabilities. For example, you have stated that the conversion company is obligated to sell the van, but the motor vehicle dealer retains the title to the van and processes all the paperwork on behalf of the conversion company. Generally, the motor vehicle dealer is considered the seller of any motor vehicle for which it has title and is listed as the retailer on its preprinted ST-556 forms. In addition, it is unclear as to whether the motor vehicle dealer or the customer is contracting to have the vans converted.

As stated in our previous letter to you, the selling price of a vehicle that has previously been modified to make it usable by a disabled person is subject to the general merchandise rate of tax in this State (6.25% plus any applicable local taxes). For example, if a motor vehicle dealer purchases a van and has it converted to make it usable by a disabled person, the entire selling price of that vehicle is subject to the general merchandise rate of tax. However, if an individual purchases a vehicle and that person separately contracts (either with the dealer or a conversion company) to have that vehicle modified to make it usable by a disabled person, any tangible personal property sold or transferred as part of that modification will be subject to the low rate of tax (1% plus any applicable local tax). Again, we cannot provide you with a specific answer regarding the scenario described in your letter without reviewing the contracts involved. We recommend that you may want to submit a Private Letter Ruling request regarding those specific sales.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton
Associate Counsel

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